

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

CONVERGEN ENERGY WI LLC

Plaintiffs,

Index No. 20-cv-00543

-against-

L'ANSE WARDEN ELECTRIC COMPANY, LLC

Defendants.

DECLARATION OF DOV GOLD

I, Dov Gold, declare:

1. My name is Dov Gold and I am an attorney with the Seiden Law Group LLP. I am licensed to practice in the State of New York, and I submit this declaration in opposition to the Renewed Motion for a Preliminary Injunction. If I were asked to testify, I would testify consistent with this declaration, and I have personal knowledge of all facts set forth herein.

2. I am counsel to Defendant, L'Anse Warden Electric Company, LLC ("L'Anse").

3. On May 11, 2020, the plaintiffs in the New York action emailed a draft complaint to CEW and its co-defendants and stated, "[a]bsent resolution of the issues raised in the attached complaint by noon Thursday, May 14, 2020." The draft complaint contained a claim for rescission of the supply agreement based on the fraudulent scheme and thereby advised that it was void. None of the defendants responded with an interest in settlement and the complaint was filed in the Southern District of New York seeking among other things, rescission of the supply agreement based on fraud. A copy of that complaint was previously filed with the court. (DKT No. 14-1).

4. Apparently, in anticipation of the New York action, CEW and two of the other New York defendants filed a declaratory judgment action in Brown County, Wisconsin the same day that the New York plaintiffs said they would file suit absent resolution.

5. On May 19, 2020, a temporary restraining order was issued in the New York action against the New York Defendants. A copy of that order was previously filed with this court. (DKT No. 14-4).

6. As part of the expedited discovery in the Southern District of New York, L'Anse and the other plaintiffs submitted interrogatories to CEW, Brooks and the other defendants, requesting them to identify those with a financial interest in CEW. Despite extensions being granted, defendants have repeatedly missed deadlines, and no response has been provided.

7. On June 10, 2020, CEW advised L'Anse that it had filed an arbitration and a complaint in a third court in Dane County, Wisconsin seeking injunctive relief against L'Anse under the pretext of a void arbitration provision, which L'Anse had contended was void in the New York action.

8. L'Anse removed this action to the Western District of Wisconsin and then moved to transfer the action to the Southern District of New York.

9. L'Anse's intends to request the Eastern District of Wisconsin case be transferred to and consolidated with the New York action, as it is superfluous of the claims already at issue in New York.

10. Simultaneously with the opposition to the motion for a preliminary injunction, the New York action plaintiffs are filing a motion to stay the arbitration pending the conclusion of the New York action.

11. The two signatories to the supply agreement are both aligned in the fraud, one a defendant, one an unnamed co-conspirator, as fully explained in the complaint filed in the New York action.

12. Upon information and belief, Convergen Energy WI, LLC is owned by Nianticvista Energy, LLC which is owned by 4406 Cypress Lane, LLC. Upon information and belief, 4406 Cypress Lane, LLC is a single member LLC owned by Gregory Merle, who is a Florida resident.

13. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 23rd day of June, 2020.

Electronically signed by Dov Gold

Dov Gold